

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-20 are rejected under 35 U.S.C. 102 (b) as being anticipated by U.S. Patent Pub. No 2002/0123595 to Tanaka et al is maintained.

Response to Arguments

Applicant's arguments filed 07/29/2009 have been fully considered but they are not persuasive.

The applicants' argued that the Tanaka reference discloses polyetherdiols that include oxyhexylene groups and that the composition of Tanaka is not commensurate in scope with the claim language. The examiner respectfully disagrees because as stated in the previous office action up to 50 mol% of the oxyhexylene groups from hexanediol may be replaced with oxybutylene or oxypentylene groups from butanediol and pentanediol, which would meet the claim language that the polyethercarbonate diol contain structural units derived from unsubstituted linear alkylene groups having 3 to 5 carbon atoms (0039). Applicants' claims use the transitional phrase "comprising" which allows for other/additional polymers, compounds, additives to be present. Therefore the disclosed mixture of Tanaka is not excluded.

Further, applicants' failed to make a comparison between the mixture of 4 to 6 carbon atom substituents derived from butanediol, pentanediol and hexanediol of Tanaka with the proposed invention. The applicants' should show some unexpected

results that would allow the examiner to confirm whether or not the mixture of the diols of Tanaka is in fact different from the mixture of diols of the claimed invention, excluding hexanediol.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL LEONARD whose telephone number is (571)270-7450. The examiner can normally be reached on Mon-Fri 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

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/Randy Gulakowski/
Supervisory Patent Examiner, Art Unit 1796